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EMTALA / COBRA

Emergency Medical Treatment and Active Labor Act **Consolidated Omnibus Budget Reconciliation Act of 1985**

The alphabet soup of acronyms, abbreviations and sometimes anachronistic terms is ever expanding for physicians. For the reader who does not have Jablonski's *Dictionary of Medical Acronym's and Abbreviations*, it is well worth the modest cost and will be an often used addition to your office library.

Todd B. Taylor MD, FACEP, Vice President for Public Affairs of the Arizona College of Emergency Physicians, recently discussed EMTALA/COBRA at an AMA-OMSS (American Medical Association - Organized Medical Staff Section) meeting in Hawaii.

George McPheeters MD, Chief of Staff of Straub Clinic & Hospital, reviewed Dr. Taylor's presentation in *Straub Conversations* - The Newsletter of the Medical Staff. This summary is published in the HMJ (Hawaii Medical Journal) with permission of Doctors Taylor and McPheeters.

History of EMTALA

1. A Rose by Any Other Name

- COBRA "Consolidated Omnibus Budget Reconciliation Act of 1985"
(EMTALA was part of this very large Bill)
- EMTALA "Emergency Medical Treatment and Active Labor Act"

2. The first 10 years - reviewed in a University of Arizona article vs the last 12 months

3. Are these guys serious?

- Original Bill
- Current penalties

4. What is EMTALA?

- General principle: "Access to care and non-discriminatory treatment."
- It seems reasonable and many hospitals and physicians have assumed they follow "reasonable" procedures.

5. "Trinity" Statutes: [1] Law, [2] Regulations, [3] Guidance to Surveyors Agencies:

- [1] CMS (Centers for Medicare and Medicaid Survey) formerly HCFA (Health Care Financing Administration)
- [2] OIG (Office of the Inspector General, Dept of Health & Human Services)
- [3] FC (Federal Courts - Civil Courts)

6. Statutes and CFR (Code of Federal Regulations)

- Medical vs Legal Definitions
- Duty to Accept Transfers
- Duty to report potential violations
- Emergency Medical Conditions

EMTALA vs MANAGED CARE

EMTALA: Everything is an emergency until you prove it is not an emergency

Managed Care: Nothing is an emergency until you prove it is an emergency

- Documentation: EMTALA is a technical law that requires technical compliance. Practicing good medicine may not be good enough if that care is not appropriately documented in the manner and form that indicate good medicine was practiced, and that technical compliance with the law was accomplished. No adverse outcome is required for CMS (Centers for Medicare & Medicaid Services) to identify a violation; the mere fact that a technical violation exists is enough.

EMTALA KISS

EMTALA KISS (Keep It Simple, Stupid or Keep It Short and Simple) **PRINCIPLES** For the Medical Staff Physician:

[The following only applies when the physician is on-call for the hospital emergency department]

If you are called – you are chosen if on-call for the emergency department (ED):

- Respond appropriately: No excuse, no complaints
- The emergency physician dictates appropriateness unless or until you assume care of the patient. In doing so, be careful not to get yourself & your hospital into EMTALA trouble.

Transfers:

- Accept ALL incoming transfers if the hospital has the capacity (bed available & ever done it before) to treat the present problem. If not, document why.
- Obtain acceptance from the receiving facility & complete transfer documentation (form) on ALL patients not otherwise being routinely discharged.

ED Patient Outpatient Follow-up:

- Do what you agreed to do in your office or risk being required to always come to the ED.
- Do not demand payment up front or refer back to the ED if patient unable to pay or a non-contracted health plan. Do what they need done that day and make definitive arrangements for further care if necessary.

Reporting Suspicious Transfers (“Dumps”):

- Only hospitals have a statutory duty to report suspicious transfers coming to them.

- Set up a hospital system for reporting ALL suspicious incoming transfers.
- There is no requirement to report suspicious refusals to accept outgoing transfers.
- Document ALL incoming and outgoing transfers.

The best response to any inquiry from a hospital emergency department is: “How can I help you with this patient?”


Note: Not all of the above “KISS Principles” are strictly required in the EMTALA statute, but application of this statute varies widely among CMS/HCFA regions and even more so in civil malpractice courts. These principles are intentionally conservative and go beyond what EMTALA actually requires. They are designed more to help keep on-call physicians out of EMTALA trouble than they are a legal explanation. **Caveat Emptor!**

Further details about Basic EMTALA Requirements and issues specific to Hospital Staff physicians can be found on page 94.

If the reader does not have *The Dictionary of Medical Acronyms and Abbreviations*¹ available for that problem abbreviation or acronym, you might try the web site www.2learn.ca/comtech/techabbrev.html or call the Reference Section of the Hawaii Medical Library.

1. Jablonski, Stanley; Dictionary of Medical Acronyms and Abbreviations, Third Edition, Hanley & Belfus, Inc., Medical Publishers, Philadelphia PA 1998.

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